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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,219	01/17/2002	Bernard Danner	1999CH006	9387
25255	7590	03/23/2004	EXAMINER	
CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205			KUMAR, PREETI	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/049,219		DANNER ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Preeti Kumar		1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/22/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Non-Final Rejection after RCE***

***Response to Amendment***

1. Claims 18-34 are pending.
2. The rejection of claim 30 under 35 U.S.C. 112, second paragraph is withdrawn in light of applicant's amendment 12/22/2003.
3. The rejection of claims 18-21 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Joyner et al. (US 4,483,969) is maintained for the reasons recited in the previous office actions.
4. The rejection of claims 18-34 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Miracle et al. (US 5,576,282) is maintained for the reasons recited in the previous office actions.

***Response to Arguments***

5. Applicant's arguments filed December 22, 2003 have been fully considered but they are not persuasive because Applicant's have not stated how the amendments to the claims overcomes the rejection of record by pointing out disagreements with the examiner's contentions. Applicant's have not discussed the references applied against the claims, explaining how the claims avoid the references or distinguish from them. The lack of arguments makes it difficult for the Examiner to see how the amendments filed December 22, 2003 overcome the rejection of record. Specifically, Miracle et al. (col.17-18) and Joyner et al. (col.2, ln.4-24) provide teaching of an emulsion useful for textile treatment encompassing the polyester recited in the newly amended claims.

Examiner finds no support or basis for the argument that the amended claims 18-20 now distinguish the instant claims over the prior art.

***Information Disclosure Statement***

6. The information disclosure statement filed December 22, 2003 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent listed that is not in the English language. Also, the relevance of providing the examiner with the title pages and table of contents of the literature on surfactants has not been addressed by the Applicant. It has been placed in the application file, but the information referred to therein has not been considered.

***New Grounds of Rejection***

***Claim Objections***

7. Claims 18-34 are objected to because of the following informalities: The use of the (Ps), (A1), (A21), (E21), (T), (GL), (B1), (H1), (H), (H3), (X), (Y), (Z), (G), (W"), (W), (W'), (Ps'), and all the other variables in the claims is unnecessary and makes the claims difficult to comprehend and makes many claims incomprehensible.

For example claim 23 denotes G as containing one of X,YorZ and then claims 30 and 32 denotes G as a thickening agent. Another example variable confusion is revealed by the material limitations of claims 29 and 33 reciting (X), (Y), (Z), (G), when (G) already encompasses (X), (Y), and (Z). Also, claims 32 and 33 denote variable W"

and W' as the same aqueous polyester composition. Also in claim 33 it is not clear what, if anything the Ps' variable is meant to denote.

Examiner suggests not using variables at all and using definite words to define the boundaries of the subject matter for which patent protection is sought. Removal of all the variables is requested as they do nothing but provide confusion and uncertainty in the examination and prosecution process for both the Examiner and the Applicant. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 27-29, 32-33 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 27-29 and 32-33 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The examiner does not see how the product claims are referring to method claims and the material limitations in the claims and the disclosure provide no clarity on what method steps are being referred to. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar  
Examiner  
Art Unit 1751

PK

*Margaret Einsmann*

**MARGARET EINSMANN  
PRIMARY EXAMINER  
GROUP 1100**